

Final

Rhode Island Supreme Court
Ethics Advisory Panel
Opinion No. 98-15, Request No. 759
Issued December 9, 1998

Facts:

The inquiring attorney is on a panel of approved attorneys for a prepaid legal service plan. He/she proposes to announce his/her affiliation with the plan by sending an introductory mass mailing to all plan members.

Issue Presented:

The inquiring attorney asks whether such an introductory mass mailing must comply with Rule 7.3(b).

Opinion:

Yes. An introductory mass mailing from an attorney who participates in a prepaid legal service plan to members of the plan must comply with the requirements of Rule 7.3(b).

Reasoning:

A participating lawyer's introductory mass mailing to members of a prepaid legal service plan is a solicitation of prospective clients and must therefore comply with Rule 7.3(b). An attorney's status as an approved attorney under such a legal service plan does not create a prior professional relationship with members of the plan.

Rule 7.3 states in pertinent part:

Rule 7.3. Direct Contact with Prospective Clients. - (a) A lawyer may not solicit professional employment from a prospective client with whom the lawyer has no family or prior professional relationship, in person or otherwise, when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain. The term "solicit" includes contact in person, by telephone or telegraph, or by other communication directed to a specific recipient and not meeting the requirements of paragraph (b) of this rule.

(b) Written communication.

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(1) Written communication to prospective clients with whom the lawyer has no family or prior professional relationship are subject to the following requirements:

(a) Such written communications shall be plainly marked "advertisement" on the face of the envelope and at the top of each page of the written communication in type one size larger than the largest type used in the written communication.

(b) A copy of each such written communication shall be sent to the Supreme Court Disciplinary Counsel and another copy shall be retained by the lawyer for three (3) years. If written communications identical in content are sent to two (2) or more prospective clients, the lawyer may comply with this requirement by sending a single copy together with a list of the names and addresses of persons to whom the written communication was sent to the Supreme Court Disciplinary Counsel as well as retaining the same information.

Accordingly, the proposed introductory mass mailing to all members of a prepaid legal service plan must be plainly marked "advertisement" in accordance with the requirements of Rule 7.3 (b)(1)(a). The inquiring attorney must also submit a copy of the letter and attachments, if any, to the Supreme Court Disciplinary Counsel, and must otherwise comply with Rule 7.3(b)(1)(b). See R.I. Sup. Ct. Ethics Advisory Panel Op. 96-28 (1996) and Op. 96-31 (1996).